Supreme Court, U.S.
FILED
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No.
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

Albert E. Cuneo,
Petitioner,

vs.

The Commonwealth of Pennsylvania,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA

PETITION FOR WRIT OF CERTIORARI

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56 pp

PRESENTATION OF QUESTIONS FOR REVIEW

1. Was the petitioner afforded due process or compulsory process under the United States Constitution in a criminal action, filed by a state in connection with a motor vehicle law?

2. Did the petitioner receive appropriate discharge of judicial claims as presented by law, for services rendered under the laws of the state, or in consequence of any act, law or treaty of the United States as guaranteed by Article IV section 2 paragraph 3?

3. Were the petitioners rights properly administered by the court of the state under Article VII amendments IV, V, and VI of the Constitution of the United States, summarizing rights of a defendant on accusation in all criminal prosecutions?

4. Was the petitioner subject to violations of constitutional guarantees given under the Constitution of the United States Article VII amendments VIII, XIII and XIV?

5. Did the petitioner receive appropriate judicial administration under the Constitution of Pennsylvania as set forth in Article 1 through 27, and Article 5 section 9?

6. Does a state in prosecuting and accused enter a judicial proceeding on the basis of being similarly situated with an accused in any prosecution containing a series of charges or related events?

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75 Pa C.S.A. section 1543(b) ..... 21.

OPINIONS BELOW

The decision of the state Supreme Court is reported at No. 866 Western District Allocatur Docket 1998. The decision of the court of appeals is reported at No. 2429 Pittsburgh 1997. The decision of the trial court is reported at No. CL 3920 0f 1997 Allegheny County. Site of Publication is unknown.

BASIS FOR JURISDICTION

The final judgement was entered in the form of an order following petition by the Supreme Court of Pennsylvania refusing to grant allocatur for review. On June 4, 1999, the order was made part of the record in this action. Understandably, this Court has jurisdiction to review the order of the state Supreme Court pursuant to 28 U.S.C. section 1257(a). Further provisions as set forth under U.S.C section 2403(b) may be applicable as defined by section 451. Certification status unknown.

CONSTITUTIONAL, STATUTORY, AND REGULATORY PROVISIONS INVOLVED FOLLOWING PREAMBLE:

United States Constitution, Article 1 section IX & X

No Bill of Attainder or ex post facto law shall be passed. (at X) make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of

Contracts, or grant any Title of Nobility.

United States Constitution, Article III, section 1

The judicial power of the United States, shall be vested in one supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

United States Constitution, Article III, section 2[3]

The trial of all Crimes, except in Cases of Impeachment, shall be by Jury:

United States Constitution, Article IV, section 1

Full Faith and Credit shall be given in each State to the Public Acts, Records, and judicial proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, records or Proceedings shall be proved, and the Effect thereof.

United States Constitution, Article IV, section 2

The Citizens of each State shall be entitled to all privileges and Immunities of Citizens in the several States.

Unites States Constitution, Article IV, section 2[3]

No person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall in Consequence of any Law or Regulation therein, be discharged from such Service of Labour, but shall be delivered up on Claim of the Party to whom

such service or Labour may be due.

United States Constitution, Article IV, section 4

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on application of the Legislature, or of the Executive (when Legislature cannot be convened) against domestic violence.

United States Constitution, Article VI paragraph 2

This Constitution, and Laws of the United States which shall be made in the Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding.

United States Constitution, Article VII, Amend. I

Congress shall make no Law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the Government for a redress or grievances.

United States Constitution, Article VII, Amend. II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

United States Constitution, Article VII, Amend. IV

The right of the people to be secure in their persons, houses, papers, and effects, against

unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and persons or things to be seized.

United States Constitution, Article VII, Amend. V

; nor shall any person be subject to the same offence to be twice put in jeopardy of life or limb; nor shall any person be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of Law; nor shall private property be taken for public use, without just compensation.

United States Constitution, Article VII, Amend. VI

In All criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of accusation; to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

United States Constitution, Article VII, Amend. VII

In Suits at common law, where the value of the controversy shall exceed twenty dollars, the right to trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the

common law.

United States Constitution, Article VII, Amend. VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment be inflicted.

United States Constitution, Article VII, Amend XI

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

United States Constitution, Article VII, Amend XIII

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

United States Constitution, Article VII, Amend. XIV

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

United States Constitution, Article VII, Amend. XIV section 4

The validity of the public debt of the United States, as authorized by law, including debts

incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.

United States Constitution, Article VII Amend. XV

The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude.

Criminal Code of the United States 18 U.S.C.

Section 1341: Fraudes and Swindles.
Section 1343: Fraud by Wire, Radio of Television.
Section 1512: Tampering with a witness, victim or informant.
Section 1513: Retaliating against a witness, victim or informant.
Section 1515: Definitions for certain provisions.
Section 1581: Peonage; obstructing enforcement.
Section 1621: Perjury.
Section 1622: Subornation of Perjury.
Section 1623: False declarations before grand jury or court.

ACTS OF CONGRESS; PUBLIC LAWS

Civil Rights Act, R.S. s 1979; P.L. 96-170 s 1 Dec. 29, 1979, 93 Stat. 1284, codified at U.S.C. 18 section 241; U.S.C. 42 section 1983 and 1985(2)(3); and U.S.C 28 section 1343.

Civil Rights Act, U.S.C 42 section 1994.
Employees Retirement Income Security Act, P.L. 93-406, 88 Stat. 829, codified at U.S.C 29 section 1001 et seq.

ACTS OF CONGRESS; PUBLIC LAWS

Equal Credit Opportunity Act, P.L. 93-495, 88 Stat. 1521, codified at U.S.C 15 section 1691 et seq.

Equal Access to Justice Act, P.L. 94-559 Stat. 2321, codified at U.S.C. 42 section 1988(a).

Declaratory Judgements Act, codified at 28 U.S.C. 2201 and 2202.

Embezzlement Act, P.L. May 29, 1920, c 212, 41 Stat. 630, codified at U.S.C. 18 section 645.

Equal Employment Opportunity Act, P.L. 88-352, 78 Stat. 241, codified at U.S.C. 42 section 2000e et seq.

Internal Revenue Code, codified at U.S.C. 26 section 61(a) et seq.

Federal Tort Claims Act, codified at 28 U.S.C. sections 1291, 1346, 1402, 1504, 2110, 2401, 2402, 2411, 2412, 2671 through 2680.

Equal Pay Act, codified at 29 U.S.C. section 206.

Appropriate sections of the Federal Criminal Code and all Federal Regulations are incorporated by reference to Public Law, shall not be limited as cited above.

SUBORDINATE REFERENCES TO THE CONSTITUTION OF PENNSYLVANIA

Constitution of the Commonwealth of Pennsylvania Article 1 section 1; Inherent Rights of Mankind

> All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life, liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

Constitution of the Commonwealth of Pennsylvania Article 1 section 6; Trial by jury.

> Trial by jury shall be as heretofore, and the right thereof remain inviolate. The General Assembly may provide, however, by law, that a verdict may be rendered by not less than five-sixths of the jury in any civil case.

Constitution of the Commonwealth of Pennsylvania Article 1 section 8; Security from searches and seizures.

> The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed by the affiant.

Constitution of the Commonwealth of Pennsylvania Article 1 section 9; Rights of accused in criminal prosecutions. In all criminal prosecutions the accused hath a right to be heard by himself

and his counsel, to demand the nature and the cause of the accusation against him, to meet witnesses face to face, and to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy and public trial by an impartial jury of the vincage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by judgement of his peers or the law of the land. The use of suppressed voluntary admission or confession to impeach the credibility of a person may be permitted and shall not be construed as compelling a person to give evidence against himself.

Constitution of the Commonwealth of Pennsylvania Article 1 section 10; Initiation of criminal proceedings; twice in jeopardy; eminent domain.

Except as hereinafter provided no person shall, for any indictable offense, be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger, or by leave of the courts of common pleas may, with the approval of the supreme court, provide for the initiation of criminal proceedings therein by information filed in the manner provided by law. No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall private property be taken or applied to public use, without authority of law and without just compensation being first made or secured.

Constitution of the Commonwealth of Pennsylvania Article 1 section 11; Courts to be open; suits against the Commonwealth.

> All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct.

Constitution of the Commonwealth of Pennsylvania Article 1 section 13; Bail, fines and punishments

Constitution of the Commonwealth of Pennsylvania Article 1 section 19; Attainder limited.

> No attainder shall work corruption of blood, nor except during the life of the offender, forfeiture of his estate to the Commonwealth.

Constitution of the Commonwealth of Pennsylvania Article 1 section 20; Right of Petition

> The citizens have a right in a peaceable manner to assemble together for their common good, and to apply those invested with the powers of government for redress of grievances or other proper purposes, by petition, address or remonstrance.

Constitution of the Commonwealth of Pennsylvania Article 1 section 21; Right to Bear Arms.

> The right of the citizens to bear arms in defence of themselves and the state shall not be questioned.

Constitution of the Commonwealth of Pennsylvania Article 1 section 26; No discrimination by the Commonwealth or its political subdivisions.

> Neither the Commonwealth nor any political subdivisions thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right.

Constitution of the Commonwealth of Pennsylvania Article 5 section 9; Right of Appeal.

> There shall be a right of appeal in all cases to a court of record from a court not of record; there shall also be a right of appeal from a court of record or from an administrative agency to a court of record or to an appellate court, the selection of such court to be as provided by law; and there shall be other such rights of appeal as provided by law.

SUBORDINATE REFERENCES TO SELECTED ANNOTATED PENNSYLVANIA STATUTES

Corporations and Unincorporated Associations;
15 Pa.C.S.A. Section 110. Supplementary general principles of law applicable;
Section 132: Functions of Department of State;
Section 1713: Personal liability of directors;
Section 1767: Appointment of custodian of corporation on deadlock or other cause;
Section 1768: Voting trusts and other agreements among shareholders;
Section 1981: Proceedings upon application of shareholder or director;
Section 1982: Proceedings upon application of

creditors;
Section 1984: Appointment of receiver pendente lite and other interim powers;
Section 1985: Liquidating receiver;
Section 1986: Qualifications of receivers.

Pennsylvania Criminal Code;
18 Pa C.S.A. section 109; When prosecution barred by former prosecution for same offense.
18 Pa C.S.A. section 110; When prosecution barred by former prosecution for different offense.
18 Pa C.S.A. section 111; When prosecution barred by former prosecution in another jurisdiction.
18 Pa C.S.A. section 112; Former prosecution before court lacking jurisdiction or when fraudulently procured by the defendant.
18 Pa C.S.A. section 303; Casual relationship between conduct and result.
18 Pa C.S.A. section 306; Liability for conduct of another; complicity.
18 Pa C.S.A. section 313; Entrapment.
18 Pa C.S.A. section 903; Criminal conspiracy.
18 Pa C.S.A. section 3901; Definitions relating to theft.
18 Pa C.S.A. section 3903; Grading of theft offenses.
18 Pa C.S.A. section Theft by unlawful taking or disposition.
18 Pa C.S.A. section 3922; Theft by deception.
18 Pa C.S.A. section 3923; Theft by extortion.
18 Pa C.S.A. section 3925; Receiving stolen property.
18 Pa C.S.A. section 3926; Theft of services.
18 Pa C.S.A. section 4501; Definitions for offenses against public administration.

Pennsylvania Criminal Code;
18 Pa C.S.A. section 5301; Official oppression.
18 Pa C.S.A. section 5701; Definitions for offenses of invasion of privacy.
Note: Other relationships to other laws or crimes may be made by inference de facto, and therefore these citations shall not be limited to exclude those references which may be made under the plenary powers of this Court on review of this matter.
Pennsylvania Domestic Code;
23 Pa C.S.A. section 3321; Hearing by master.
23 Pa C.S.A. Section 3323; Decree of court
1990, Dec. 19, P.L. 1240, No. 206, Section 2, effective in 90 days.
23 Pa C.S.A. Section 3502; Equitable division of marital property;
23 Pa C.S.A. section 3503; Effects of divorce on property rights generally.
23 Pa C.S.A. section 3504; Disposition of property after termination of marriage.
23 Pa C.S.A. section 3505(a)(b)(c)(d)(e); Disposition of property to defeat obligations.
23 Pa C.S.A. section 3506; Statement of reasons for distribution.
23 Pa C.S.A. section 3507; Division of entireties property between divorced persons.
23 Pa C.S.A. section 3701; Alimony.
23 Pa C.S.A section 4102; Proceedings in case of debts contracted for necessaries.
23 Pa C.S.A. section 4104; Right of married person to separate earnings.
23 Pa C.S.A. section 4105; Loans between married persons.
23 Pa C.S.A. section 4305; General administration

of support matters.
23 Pa C.S.A. section 4306(a)(b); Duties of District Attorney.
23 Pa C.S.A. section 4321; Liability for Support.
23 Pa C.S.A. section 4322; Support Guidelines.
23 Pa C.S.A. section 4363(a)(b); Trustee to distribute proceeds of sale.
23 Pa C.S A. section 4364(a)(b); Credit to plaintiff who purchases property.
23 Pa C.S.A section 4365; Rights of divorced person in entireties property sold for support. See further, Pa. R. Civ. P. 1910.16 (1-5)
42 Pa C.S.A. section 8321 et seq. (Tortfeasors contribution Act).

Pennsylvania Motor Vehicle Code:
75 Pa C.S.A. section 3731; Driving under the influence of alcohol or controlled substance.

> (a) Offense defined.- A person shall not drive, operate or be in actual physical control of the movement of any motor vehicle: (1) while under the influence of alcohol to a degree which renders the person incapable of safe driving; (2) while under the influence of a controlled substance, as defined in the act of April 14, 1972 (P.L. 233 No. 64) known as the Controlled Substance, Drug, Device and Cosmetic Act, to a degree which renders a person capable of safe driving; (3) while under the combined influence of alcohol and any controlled substance to a degree which renders the person capable of safe driving; (4) while the amount of alcohol by weight in the blood of the person is 0.10% or greater; or

(5) if the amount of alcohol by weight in the blood of the person is 0.10% or greater at the time of a chemical test of a sample of the person's breath, blood or urine, which sample is: (i) obtained three hours after the person drove, operated or was in actual physical control of the vehicle; or (ii) if the circumstances of the incident prevent collecting the sample within three hours, obtained within a reasonable additional time after the person drove, operated or was in actual physical control of the vehicle. (a.1) Defense.- It shall be a defense to a prosecution under section (a)(5) if the person proves by preponderance of evidence that the person consumed alcohol after the last instance in which he drove, operated or was in actual physical control of the vehicle and that the amount of alcohol by weight in his blood would not have exceeded 0.10% at the time of the test but for such consumption. (b) Authorized use not a defense. (c) Certain arrests authorized.- In addition to any other powers of arrest, a police officer is hereby authorized to arrest without a warrant any person who the officer has probable cause to believe has violated the provisions of this section, regardless of whether the alleged violation was committed in the presence of such officer. This authority to arrest extends to any hospital or other medical treatment facility located beyond the territorial limits of the police officer's political subdivision at which the person to be arrested is found or

was taken or removed to for purposes of emergency treatment examination or evaluation provided there is probable cause to believe that the violation of this section occurred within the police officer's political subdivision. (d) Certain dispositions prohibited.- The attorney for the Commonwealth shall not submit a charge brought under this section for Accelerated Rehabilitative Disposition if: (1) the defendant has been found guilty of or accepted Accelerated Rehabilitative Disposition of a charge brought under this section within seven years of the date of the current offense; (2) the defendant committed any other act in connection with the present offense, which in the judgement of the attorney for the Commonwealth, constitutes a violation of any of the specific offenses enumerated within section 1542 (relating to revocation of habitual offender's license); or (3) an accident occurred in connection with the events surrounding the current offense and any person, other than the defendant, was killed or seriously injured as a result of the accident. (e) Penalty.- (1) Any person violating any of the provisions of this section is guilty of a misdemeanor of the second degree, except that a person convicted of a third or subsequent offense is guilty of a misdemeanor of the first degree, and the sentencing court shall order the person to pay a fine of not less than $300.00 and serve a minimum term of imprisonment of: (i) Not

less than 48 consecutive hours. (ii) Not less than 30 days if the person previously accepted Accelerated Rehabilitative Disposition or any other form of preliminary disposition, been convicted of, adjudicated delinquent or granted a consent decree under the Juvenile Act (42 Pa C.S. section 6301 et seq.) based on an offense in this or other jurisdiction within the previous seven years. (iii) Not less than 90 days if the person has twice previously if the person has twice previously been convicted of, adjudicated delinquent or granted a consent decree under the Juvenile Act based on an offense under this section or of an equivalent offense in this or other jurisdictions within the previous seven years. (2) Acceptance of Accelerated Rehabilitative Disposition, an adjudication of delinquency or a consent decree under the Juvenile Act or any other form of preliminary disposition of any charge brought under this section shall be considered a first conviction for the purpose of computing whether a subsequent conviction of a violation of this section shall be considered a second, third, fourth or subsequent conviction. (3) The sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory penalties of this section (4) The Commonwealth has the right to appeal directly to the Superior Court any order of court which imposes a sentence for violation of this section which does not meet the requirements of this section. The

Superior Court shall remand the case to the sentencing court for imposition of a sentence in accordance with the provisions of this section. (5) Notwithstanding the provision for direct appeal to the Superior Court, if, in a city of the first class, a person appeals from a judgement of sentence under this section from a municipal court to the common pleas court for trial de novo, the Commonwealth shall have the right to appeal directly to the Superior Court from the order of the common pleas court if the sentence imposed is in violation of this section. If, in a city of the first class, a person appeals to the court of common pleas after conviction of a violation of this section in a municipal court and thereafter withdraws his appeal to common pleas court, thereby reinstating the judgement of sentence of the municipal court, the Commonwealth shall have 30 days from the date of withdrawal to appeal to the Superior Court if the sentence is in violation of this section. (6) Any person who accepts Accelerated Rehabilitative Disposition of any charge brought under this section shall accept as conditions the imposition of any the judge shall impose in addition to any other conditions all of the following: (i) A fee to cover the costs referred to in section 1548(e) (relating to costs). (ii) A mandatory suspension of operating privilege for a period of not less than one month but not more than 12 months. (iii) A condition that the defendant, as a condition to entering the

program, make restitution to any person who incurred determinable financial loss as a result of the defendant's actions which resulted in a charge of violating this section. (iv) Court supervision for any defendant required to make restitution or submit to counseling or treatment.
(v) Court supervision for a period of not less than 6 months when the Court Reporting Network indicates that counseling or treatment is not necessary and not less than 12 months when the Court Reporting Network indicates that counseling or treatment is in order. (vi) A fee to cover the reasonable costs, if any, of a municipal corporation in connection with a charge brought under this section which results in Accelerated Rehabilitative Disposition. (7) Accelerated Rehabilitative Disposition or other preliminary disposition of any charge of violating this section may be revoked and the court shall direct the Attorney for the Commonwealth to proceed on the charges as prescribed in general rules if the defendant: (i) is charged with or commits any crime enumerated in Title 18 (relating to crimes and offenses) or in section 1542 within the probationary period; (ii) fails to make restitution as provided for in this section; (iii) fails to successfully complete the alcohol highway safety school required by section 1548(b); (iv) fails to successfully complete any program of counseling or treatment, or both, required as a condition of Accelerated

Rehabilitative Disposition; or (v) violates the terms and conditions of Accelerated Rehabilitative Disposition in any other way. (7.1) In addition to the conditions set forth in paragraph (7) for Accelerated Rehabilitative Disposition of any charge brought under this section, the judge may impose, and the person shall accept, the condition that the person engage in a program of collecting litter from public and private property, especially property which is littered with alcoholic beverage containers. The duration of the person's participation in a litter collection program shall not exceed the duration of the probationary period imposed on the person under Accelerated Rehabilitative Disposition. (8) With exception of program costs referred to in section 1548(e) or any restitution referred to in this section, and with the exception of any fees imposed pursuant to paragraph (6)(vi) which shall be distributed to the affected municipal corporation, any fee of financial condition imposed by a judge as a condition of Accelerated Rehabilitative Disposition or any other preliminary disposition of any charge under this section shall be distributed as provided for in 42 Pa C.S. section 3571 (relating to Commonwealth portion of fines, etc.) (f) Preliminary hearing or arraignment.- The presiding judicial officer at the preliminary hearing or preliminary arraignment, relating to any charge of a violation of this section, shall not reduce or modify the original charges.

(g) Expired. 1984, Feb. 12 P.L. 53 No. 12, effective June 11, 1988. (h) Work release.- In any case in which a person is sentenced to a period of imprisonment as a result of a conviction for violating any provision of this section, the judicial officer imposing that sentence shall consider assigning that person to a daytime work release program pursuant to which the person would be required to collect litter from public and private property, especially property which is littered with alcoholic beverage containers. (i) Driving a commercial motor vehicle while under the influence of alcohol or a controlled substance.- a person shall not drive, operate or be in physical control of the movement of any commercial vehicle while:

(1) under the influence of alcohol; (2) under the influence of any controlled substance as defined in section 1603 relating to definitions (3) under the combined influence of alcohol and any controlled substance; (4) the amount by weight in the person's blood is 0.04% or more.

75 Pa C.S.A. 1543. Driving while operating privilege is suspended or revoked.

(a) Offense defined.- Except as provided in subsection (b), any person who drives a motor vehicle on any highway or trafficway of this Commonwealth after the commencement of a suspension, revocation or cancellation of the operating privilege and before the operating privilege is restored is guilty of a summary offense and shall, upon conviction,

be sentenced to pay a fine of $200.00. (b) Certain offenses.-(1) Any person who drives a motor vehicle on any highway or trafficway of this Commonwealth at a time when their operating privilege is suspended or revoked as a condition of Accelerated Rehabilitative Disposition for a violation for a violation of section 3731 (relating to driving under the influence of alcohol or controlled substance) or because of a violation of this section. 1547(b)(1))relating to suspension for refusal) or 3731, shall upon conviction, be guilty of a summary offense and shall be sentenced to pay a fine of $1,000 and undergo imprisonment for a period of not less than 90 days. (2) This subsection shall apply to any person against whom one of these suspensions has been imposed whether the person is currently serving this suspension or whether the effective date of suspension has been deferred under any of the provisions of section 1544 (relating to additional period of revocation or suspension). This provision shall also apply until the person has had the operating privilege restored. This subsection shall also apply to any revocation imposed pursuant to section 1542 (relating to revocation of habitual offenders license) is any of the enumerated offenses was for a violation of section 3731. (c) Suspension or revocation of operating privilege.-Upon receiving a certified record of the conviction of any person under this section, the department shall suspend or revoke that

person's operating privilege as follows: (1) If the department's records show that a person was under suspension, recall or cancellationon the date of violation, and had not been restored, the department shall suspend the person's operating privilege for an additional one-year. (2) If the department's records show that the person was under revocation on the date of the violation, and had not been restored, the department shall revoke the person's operating privilege for an additional two-year period. (d) Citation to appropriate subsection.-Prior to filing a citation for a violation of this section with the issuing authority named in the citation, the police officer shall verify the basis for the suspension with the department. Upon receiving the verification, the officer shall cite the appropriate subsection of this section on the citation.

STATEMENT OF THE CASE

The Constitution of the United States, having conferred the supreme authority of the law and of the land upon this Honorable Court, provides a direct means of redress of the grievances contained in this petition.

Under the Laws of the Nation and state, the petitioner and respondent matched in a controversy known as criminal litigation, based upon the state's propensity to provide spiritual implications by substance, for which it convicts and penalizes the people in large numbers, based upon certain

activities seen by the people as being necessary, or those seen by the people as illnesses, which the people contract. The petitioner happens to be a person within the Commonwealth which administers certain laws, in particular laws directed to abate abuse of spirits when the activity involves operation of a motor vehicle within its jurisdictional limits intending to obstruct, impair or disregard longstanding Constitutional guarantees to suit its own ends, implicating upon a person long term punitive effects in person, process, money, property or other inalienable rights.

The parties entered the initial controversy under the Pa C.S.A. section 3731 on June 2, 1993, which was made as an action under that section of the state motor vehicle code at a time when the petitioner had been involved in a substantial amount of other related litigation, of which a petition at No 263-99 presently stands before this Honorable Court[1].

A second charge followed in 10th Judicial District of the Commonwealth of Pennsylvania on May 6, 1994, in Magisterial District 10-2-10 with preliminary hearing held on July 14, 1994, which exceeded the time requirement for preliminary hearings under Commonwealth Criminal Rules. The matter was bound for court and was followed by a

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1 An action by the Commonwealth was docketed as a first offense in Washington County, Pennsylvania within Magisterial District 27-3-01 for a misdemeanor of the second degree at No Cr-168-92. The action was waived to the Court of Common Pleas of Washington County and was docketed at No 693-1993 with the Washington County Clerk of Courts. A series of 7 field and chemical tests were performed at the insistence of the law enforcement officer who did not possess and could not show the petitioner a warrant of any type on behalf of the Commonwealth in its request to examine evidence or cause. On the insistence of counsel, the petitioner accepted terms of ARD, and underwent imposition of a 30 day operating privilege suspension, fines, costs, supervision and related administration as defined by the section. Nowhere in the charging officers affidavit is there reference to miranda advise having previously been given, or that which defines the officers requirement to state options to preference on the accused for tests.

trial by jury on April 20, 1995[2].

The third charge that followed, occurred on January 17, 1996. The charging officer's citation was based upon a finding and verification of petitioner's motor vehicle operators record kept by the Commonwealth and cited section 1543(b) as its site for prosecution purposes. The charge was brought in the 27th Judicial District of the Commonwealth of Pennsylvania in Magisterial District 27-2-01[3].

The fourth and final charge followed on April 29, 1997, through citation of a charging officer which was not filed until June 4, 1997, beyond the 30 day limitation for which to file. A hearing on the cause procured by the charging officer and was held with a determination of guilt made. An appeal followed to the Court of Common Pleas in the 5th Judicial District of the Commonwealth of

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[2] An action was docketed at 2132-C-1994 as the second action. Following trial by jury, the petitioner was convicted on all but one count, which was nolle prossed on motion of the Commonwealth Attorney. The petitioner was sentenced to 1 year loss of operating privileges, 30 days confinement in a county prison, and assessed fines, costs, supervision and other related impositions as defined by the penalties corresponding to the conviction. The purpose intended by the law is to maintain access for more severe punishments upon people within the limits of the Commonwealth for an unreasonable period of not less than 7 years, by making a persons operators license or motor vehicle record operate as a device for its own use and entry into evidence in its courts to receive the convictions of its people and to mete out punishments.

[3] Action in the third charge was determined before a district justice at No Tr 066-1996, and thereafter was appealed to the Court of Common Pleas of Washington County and docketed at No. 878-1996 on summary appeal in trial denovo. Petitioner was found guilty on evidence in possession of law enforcement personnel on or about December 25, 1995, which was deduced by the petitioner as having entrappment propensities. Attaching punishment relating to the conviction was thereafter meted out by the court, which was not vacated or reversed on appeal.

Pennsylvania and docketed at No. CL 97-3920 with request to convene trial de novo[4]. The judgement of the court was followed by appeal. The ruling of the Superior Court of Pennsylvania is shown in Appendix "A". The trial court judgement and opinion are shown in Appendix "B". And the ruling of the State Supreme Court is shown in Appendix "C".

Judicial procedure in prosecution of the accused requires due process under specific provisions of United States Constitution. Nowhere, in the applications of record in the trial court, or any appellate court is there any finite pattern that would conclusively identify proper procedure under the guarantee of due process, which is inalienable to the petitioner.

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[4] Trial denovo was held on charges under 75 Pa C.S.A. section 1543(b), with wit present by subpoena for the presentation of the petitioner's case in chief. Subpoenaed witnesses con persons or officials who by association were related to the official acts in the prior actions and convi witnesses were not afforded an opportunity to testify by the court over objection of the petitioner to veracity in the underlying convictions as a defense. The petitioner was thereafter convicted and atta punishment was meted out. Trial de novo was held November 5, 1997.

BEST AVAILABLE COPY

REASONS FOR GRANTING THE WRIT

I. THE INTENTIONS OF THE FRAMERS OF OUR CONSTITUTION WAS TO PROHIBIT AND REASONABLY LIMIT POWERS CONFERRED TO GOVERNMENT LAW ENFORCEMENT OFFICIALS TO GUARD AGAINST ACTS OF ABUSE, IN PROCESS, AND OPPRESSIVE CREATIVITY TO GUARANTEE PROTECTION OF INALIENABLE RIGHTS IN JUSTICE BEING ADMINISTERED.

This case presents the important question of whether there is too much permissiveness under applicable state and federal measures that restrict the appropriate activity in processing or prosecuting the laws of the land upon its people. These are acts situated as official acts on a person's life or property presently enforceable upon our entire population acting as one well informed protected person. There is no provision or place in law, for obstruction of process by official acts in light of the equal protection guarantee. [See Brandon vs. District of Columbia Bd. of Parole; Hoffman vs. US; Kaha vs. State of Minn; Shelly vs. Kraemer; Dudosh vs. Warg; Joyce vs. Mavromatis; Associated General Contractors of California, Inc. vs. City of County of San Francisco; Reeder vs. Kansas City Bd. of Police Commissioners; Salahudin vs. Coughlin; Erret vs. Commonwealth of Pennsylvania; McGhee vs. Sipes; Keyes vs. City of Albany; Atwell vs. Blackburn; Wiggins vs. Procunier]

There can be no justification for the pattern of prosecuting that this chain of events has taken, resulting in convictions preferential to the state without enforcement of due process or equal protection guarantees in compounded trials. [See Goshtasby vs. Bd of Trustees for the University of Illinois; Garrity vs State of New Jersey; People vs. Chambers; People vs Liaetta; Sherman vs. United States; State vs. Fort; Stoneman vs. US; Transportation Corp vs. Holt; US vs. Hughes; US vs. Humphreys; US vs Moore; US vs. Nguyen; US vs. Perez; US vs.Powell; Us vs. Smith; US vs Torres; US vs. Walker; Com. of Pa Dept. of Transp Bureau of Traffic Safety vs. Calloway; Com. of Pa Dept. of Transp Bureau of Driver Licensing vs. Diamond; and Com of Pa vs. Diamond]

For reasons, set forth herein and those which clearly appear in this action, a writ of certiorari is necessary to the State Supreme Court to hear an appeal.

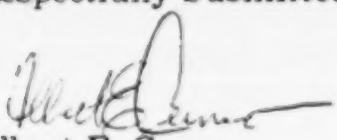
Other actions before inferior courts, including but not limited to the inferior appellate courts of this particular region have been made of record and clearly show, the methods of causation for this request being beyond the state court of last resort.

The petitioner believes that law was made to financially use the population for government gain. Unreasonable impositions are made upon person, property and well being of the public daily. These applications under the law should not be the role of government or courts. The medicinal properties of alcohol for consumption should be retained for the enjoyment of people, with gross offenses punished.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully Submitted,



Albert E. Cuneo,
Petitioner

APPENDIX A

J. A2024/98:

In the Superior Court or Pennsylvania
Pittsburgh District

Commonwealth of Pennsylvania,
Appellee,
v. No. 2429 Pittsburgh 1997
Albert E. Cuneo, Appellant.

Appeal from Judgement of Sentence of November 5, 1997, entered in the Court of Common Pleas of Allegheny County, Criminal Division at No. CL 97-3920

Before: Musmanno, Orie Melvin JJ, and Cirillo, P.J.E.

MEMORANDUM FILED: NOVEMBER 24, 1998

Appellant, Albert E. Cuneo, appeals from a judgement of sentence imposed by the Court of Common Pleas of Allegheny after he was found guilty in a trial de novo of driving while his license was suspended, DUI related.[1] Due to the inadequacy of Mr. Cuneo's brief, we are unable to conduct meaningful appellate review. Therefore we quash the appeal without reaching the merits.

The facts and procedural history may be briefly summarized as follows. On April 29, 1997 Pennsylvania State Trooper Richard Swank was conducting a traffic safety check at which a vehicle being operated by Mr. Cuneo was stopped. In the course of the traffic stop Mr. Cuneo was unable to display a valid operator's permit and further investigation revealed his driving privileges were under DUI related suspension at the time[2]. Trooper Swank testified he requested a copy of Mr. Cuneo's

record and upon receipt of that certified copy dated May 5, 1997, he filed the citation on June 4, 1997.

On July 29, 1997 Mr. Cuneo was found guilty of violating 75 Pa C.S.A. section 1543(b) before a district justice. He took an appeal to the Court of Common Pleas of Allegheny County where on November 5, 1997,after a trial de novo, he was found guilty and sentenced to ninety days imprisonment and fined $1,000.00. Its from this judgement of sentence which appellant has filed timely appeal.

On appeal, Mr. Cuneo has raised a number of vague and incomprehensible allegations. In the "Statement of the Questions Involved" section of his brief Mr. Cuneo presents the following issues:

> 1.] Was due process served before Courts in the 5th, 10th and 27th Judicial Districts of the Commonwealth of Pennsylvania, to suspend an operators license under 3731 or 1543 (b) which contained a reasonable doubt of inapplicable procedure in finding the defendant's guilt?
>
> 2.] Was the defendant provided due process in compliance with the rules of criminal procedure as provided by the Constitution of the Commonwealth of Pennsylvania, in strict compliance with time for filing consistent with 75 Pa. C.S.A section 1543 (b), permitting dismissal and a probe of underlying convictions in rebuttal presumption for the purpose of the presentment of a defense?
>
> 3.] Has the defendant, as a result of impositions and convictions at law, sustained

a fraudulent term of unnecessary administration by the specific Courts mentioned in the enforcement of the laws of the Commonwealth by and through its' representative agents in specific districts, with a motive to infringe upon the defendants wealth and earning capability for no apparent reason?

4.] Has the defendant been given prompt and correct judicial directives on application in the respective judicial districts by law in his foregoing history of actions before the Courts of the Commonwealth from 1990 to the present?

5.] Was the Commonwealth of Pennsylvania, and its' satellite benefactors (alcohol awareness schools/probation and parole divisions, fine collectors etc.) within their legal limits in taking concerted actions against the defendant to detain and compromise the defendant from time to earn a living, retain and manage assets, income, and to pursue liberty without the use of his financial resources and additional property, by application in criminal and civil Court?

6.] Was the defendant entrapped and convicted by definition in this action?

Mr. Cuneo's brief at 7.

Although Mr Cuneo raises the above six issues in the "Statement of the Questions Involved" in his brief, the argument portion of his brief does not address these issues. Instead, in the argument section of his brief Mr. Cuneo lists six additional questions for the Court's consideration.

Mr. Cuneo has presented this Court with an unintelligible brief that does not provide sufficient facts to support his allegations, does not cite to pertinent legal authority and in no manner develops his legal arguments. What Mr. Cuneo has presented to the Court is a rambling discourse in the form of multiple questions. Under the circumstances, we find Mr. Cuneo;s claims are not reviewable. **See Commonwealth vs. Rivera, 685 A.2d 1011 (Pa. Super 1996)** (stating underdeveloped arguments will not be considered); **Commonwealth vs. Adamo, 637 a.2d 302 (Pa. Super 1994)**; (stating that failure to elaborate on mere assertion in brief results in waiver); **Commonwealth vs. Maris, 629 A.2d 1014 (Pa. Super 1993)** (holding substantial defects in brief, including pro se appellant's undeveloped arguments, unsupported statements and largely inapplicable caselaw prevented meaningful judicial review).

Mr. Cuneo's pro se status does not relieve him of his responsibility to raise and develop his claims. Nor does it entitle him to have this Court advocate on his behalf. **See Commonwealth vs. Sanford, 445 A.2d 149 (Pa Super. 1982)** (stating that the Superior Court is not a pro se litigant's counsel and will not consider the merits of issues not property raised and developed in briefs). Since the defects in Mr. Cuneo's Brief are substantial and preclude this Court from conducting any meaningful appellate review, we quash his appeal. **Pa R.A.P. 2101; Rivera, supra.**

Appeal quashed.

In the Superior Court or Pennsylvania
Pittsburgh District

Commonwealth of Pennsylvania,
Appellee,
v. No. 2429 Pittsburgh 1997

Albert E. Cuneo,
Appellant.

JUDGEMENT

ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this Court that appeal quashed.

BY THE COURT:
/s/ Eleanor R. Valecko
Deputy Prothonotary

Dated: November 24, 1998

APPENDIX B

In the Court of Common Pleas of
Allegheny County, Pennsylvania
Summary Appeals Branch

Commonwealth of Pennsylvania
Plaintiff,

vs. CL#3920 of 97

Albert E. Cuneo,
Defendant.

ORDER OF COURT

AND NOW, TO WIT, THIS 5 DAY OF NOVEMBER, 1997 DEFENDANT IS ADJUDGED GUILTY OF THE OFFENSE OF 1543(B) HEREWITH HE STANDS CHARGED, AND DEFENDANT IS SENTENCED TO PAY A FINE OF $1,000.00, PLUS COSTS. TO THE CLERK OF COURTS WITHIN 60 DAYS UNLESS OTHERWISE NOTED. 90 DAYS ALLEGHENY COUNTY JAIL, SENTENCE EFFECTIVE 12-8-97.

BY THE COURT,

/s/ Watson, J.

Original Conviction Date:
7-29-97
Charge VC 1543 B
Citation # F0239766-2
TR 1301-97
Note: Defendant has from the date of this decision Thirty (30) days to appeal to the Superior/Commonwealth Court.--Delivered U.S.Mail.

In the Court of Common Pleas of
Allegheny County, Pennsylvania
Summary Appeals Branch

Commonwealth of Pennsylvania
Plaintiff,

vs. CL#3920 of 97

Albert E. Cuneo,
Defendant.

OPINION: March 26, 1998 Delivered US Mail.

On April 29, 1997, Pennsylvania State Trooper Richard Swank was conducting a "traffic safety check" at which a vehicle being operated by the Defendant, Albert E. Cuneo, was stopped. in the course of the traffic stop Defendant was unable to display a valid operator's permit and further investigation revealed that his privileges were under a D.U.I.-related suspension at the time. Defendant was cited for this offense and appealed to the Court of Common Pleas of Allegheny County.

At trial certified documents evincing the suspension were offered by the Commonwealth and admitted into evidence by this court.

Defendant did not offer discernable substantive defense to the charge and we rejected his legal arguments. In the face of the certified documents and the credible testimony of the trooper we found the Defendant guilty as charged by our order dated November 5, 1997.

Per Curiam,

/s/ Watson, J., J.

APPENDIX C

In the Supreme Court of Pennsylvania
Western District

Commonwealth of Pennsylvania, Respondent,	:	No. 886 Western District Allocatur Docket 1998
v.	:	Petition for Allowance of Appeal from Order Memorandum Opinion of the Superior Court
Albert E. Cuneo, Petitioner.	:	

ORDER

PER CURIAM

AND NOW, this 4th day of June, 1999, the Petition for Allowance of Appeal is hereby DENIED.

A true Copy Patricia Honard
As of: June 4, 1999
Attest: /s/ Patricia Honard
Chief Clerk
Supreme Court of Pennsylvania

Supreme Court of Pennsylvania
Western District

Amy J. Ceraso, Esquire
Deputy Prothonotary
Patricia A. Honard
Chief Clerk

June 4, 1999

TO: Mr. Albert Cuneo

Re: Commonwealth of Pennsylvania
Respondent,
v.
Albert E. Cuneo
Petitioner.

No. 0886 W.D. Allocatur Docket 1998

Dear Counsel:

This is to advise you that the attached order has been entered on the Petition for Allowance of Appeal filed in the above-captioned matter.

Very truly yours,

Office of the Prothonotary
Supreme Court of Pennsylvania

/kap
c: Honorable J. Warren Watson, SJ
Allegheny; CL97-3920; Civil
Michael Streily, Esquire
Sandra Preuhs, Esquire